

**FILED**

DEC 6 2013

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

OFFICE OF THE BANKRUPTCY CLERK  
ALBANY, NY

In re:

**AFFIDAVIT OF  
NON-COMPLIANCE**

**John G. Maloney,**

Chapter 13  
Case No. 11-13985-1-rel

**Debtors**

**HON. ROBERT E. LITTLEFIELD, JR.**

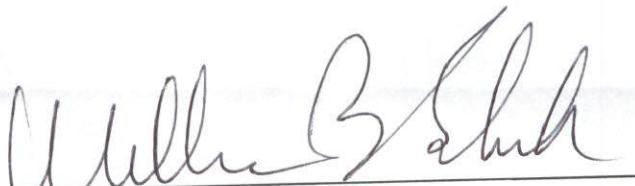
William B. Schiller, being duly sworn, deposes and says:

1. I am a partner in the law firm of Schiller & Knapp, LLP, attorneys First Niagara Bank, N.A. (hereinafter "FNB") a secured creditor in the above captioned matter.
2. On or about April 24, 2012, a motion for relief from the automatic stay was filed on behalf of FNB. A conditional order was entered on June 25, 2012. Pursuant to the Conditional Order the Debtor was required to commence making the regular monthly mortgage payments together with additional cure payments. If the payments were not made when due the order allowed FNB, its servicing agent, nominees, successors and/or assigns to mail a ten day notice of default to the Debtor and Debtor's attorney. If the default was not cured the automatic stay would be terminated upon the submission and signing of an ex-parte order.

3. On November 12, 2013 a ten-day notice of default was served on the Debtor and Debtor's attorney. A copy of the notice is annexed hereto and made a part hereof as Exhibit "A".

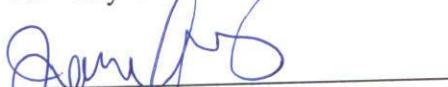
4. More than ten days have passed and the default has not been cured.

**WHEREFORE**, FNB respectfully requests that an order be entered granting relief from the automatic stay.



William B. Schiller

Sworn to before me on the  
25<sup>th</sup> day of November 2013



Notary Public

JENNIFER L. SPRETT  
NOTARY PUBLIC - STATE OF NEW YORK  
NO. 01SP6033433  
QUALIFIED IN SARATOGA COUNTY  
MY COMMISSION EXPIRES 11/15 2017

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ALBANY, NY



**Exhibit "A"**

# SCHILLER & KNAPP, LLP

*Attorneys and Counselors at Law*

Paul B. Knapp

William B. Schiller

Gary A. Lefkowitz

Ryan E. Hertzel

Daniel N. Young \*

Darleen V. Karaszewski

Lynn T. Nolan \*\* ▽

Martin A. Mooney\*

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\*Not For Service of Any Litigation Papers

(ALL REPLIES TO LATHAM OFFICE)

Young-Lynn Lee<sup>□</sup>

Kristin D. Pierce<sup>t</sup>

Jaime B. Thomas, of Counsel

Paul D. Rogan, of Counsel

Donald M. Matusik, of Counsel

\* Also Member of VT Bar

\*\* Also Member of NJ Bar

▽ Responsible Attorney for NJ

□ Member of NJ Bar Only

\*Also Member of PA Bar

\*Also Member of MA & PA Bar

November 12, 2013

Brian H. Bronsther, Esq.  
The Bronsther Law Firm, P.C.  
930 Route 146  
Clifton Park, New York 12065

Re: John G. Maloney  
Case No. 11-13985-1-rel, Chapter 13

Dear Mr. Bronsther:

As you are aware, my office represents First Niagara Bank, N.A. in the above-referenced matter. Please be advised that your client is in default under the terms of the Conditional Order signed on June 25, 2012.

As of the date of this letter your client is in default under the terms of the conditional order for the following payments:

1. Regular Monthly Mortgage Payment for August 15, 2013 \$415.13
2. Regular Monthly Mortgage Payment for September 15, 2013 \$415.13
3. Regular Monthly Mortgage Payment for October 15, 2013 \$415.13

The total amount necessary to cure the default is \$1,245.39. Payment should be made by bank or certified funds and sent directly to First Niagara Bank, N.A.

Pursuant to the Conditional Order, your client now has ten (10) days from the date of this letter to cure the default. If your client fails to cure the default, an affidavit of non-compliance will be submitted to the Court.

Very truly yours,

*/s/ William B. Schiller*

WILLIAM B. SCHILLER

WBS:lmg  
cc: John G. Maloney

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK

In re:

AFFIDAVIT OF SERVICE  
BY MAIL

**John G. Maloney,**

Case No. 11-13985-1-rel  
Chapter 13

Debtor.

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STATE OF NEW YORK )  
COUNTY OF ALBANY )ss:

Lisa Gadomski, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides in Greenfield Center, New York.

That on November 12, 2013 deponent served a true and exact copy of a Notice of Default upon:

Brian H. Bronsther, Esq.  
Attorney for Debtor  
The Bronsther Law Firm, P.C.  
930 Route 146  
Clifton Park, New York 12065

John G. Maloney  
Debtor  
2 White Birch Road  
Waterford, New York 12188

these being the addresses designated by said attorneys for that purpose, by depositing a true copy of same enclosed in a post-paid, properly addressed envelope, in a post office official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

/s/ Lisa Gadomski  
Lisa Gadomski

Sworn to before me this  
12<sup>th</sup> day of November 2013

/s/ Jennifer L. Spretty  
NOTARY PUBLIC

Jennifer L Spretty  
Notary Public, State of New York  
County of Saratoga No. 01SP6033433  
Commission Expires 11/15/13